

## Message Text

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ACTION NEA-06

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LIMDIS

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TAGS: CASC, TU (HAYES, WILLIAM)

SUBJECT: HAYES CASE

1. AS DEPARTMENT AWARE, I HAVE ON A GOOD NUMBER OF OCCASIONS URGED SUCCESSIVE FOREIGN MINISTERS TO INTERVENE WITH A VIEW TO EARLY RELEASE OF BILLY HAYES. SINCE JUNE 7, 1974 THRUST OF MY REPRESENTATIONS WITH GUNES AND ESENBEL HAS BEEN FAVORABLE GOT ACTION ON WRITTEN PROPOSAL WE MADE TO GUNES (ANKARA 4544, JUNE 11, 1974) THAT HAYES BE RELEASED TO RETURN TO THE US WHERE HE WOULD VOLUNTARILY PUT HIMSELF UNDER CONTROL OF APPROPRIATE CORRECTIVE AUTHORITIES THERE.

2. TOWARD END OF JANUARY FOREIGN MINISTER ESENBEL SAID THAT GOT COULD NOT CONSENT TO THIS PROPOSAL AND IMPLIED THAT WE HAD BEEN "TOO HONEST" IN MAKING IT KNOWN THAT US AUTHORITIES WERE NOT IN A POSITION TO INCARCERATE HAYES IN AN AMERICAN PENAL INSTITUTION TO SERVE OUT BALANCE OF SENTENCE HANDED DOWN BY TURKISH COURTS. COMMENT: OF COURSE, FROM POINT OF VIEW OF OUR ONGOING RELATIONSHIP WITH GOT WE WERE NOT "TOO HONEST." IF WE HAD IMPLIED A COMMITMENT TO TURKS THAT USG WAS CONSTITUTIONALLY UNABLE TO FULFILL, THIS WOULD CERTAINLY HAVE HAD ADVERSE REPERCUSSIONS ON ALL SUBSEQUENT EFFORT WITH RESPECT TO SIMILAR CASES AS WELL AS SERIOUSLY  
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DAMAGING OUR GENERAL CREDIBILITY WITH GOT.

3. FOLLOWING THIS, ESENBEL TOLD ME THAT AFTER DISCUSSING HAYES' CASE WITH GOT, HE WAS NOW CONVINCED THAT THE BEST CHANCE, INDEED THE ONLY REAL CHANCE, FOR EXPEDITING HAYES' RELEASE LAY IN OUR MAKING AN APPEAL ON THE GROUNDS THAT HAYES' HEALTH, PHYSICAL AND/OR MENTAL, WAS DETERIORATING AS A RESULT OF HIS INCARCERATION IN A TURKISH PRISON. ESENBEL CONTINUED THAT HE COULD MAKE NO GUARANTEE THAT SUCH AN APPEAL WOULD BE SUCCESSFUL, BUT THAT AFTER DISCUSSING THE CASE WITH THE MINISTER OF JUSTICE HE FELT THAT THIS APPROACH PROVIDED THE BEST OPPORTUNITY FOR EARLY RELEASE. ESENBEL ADDED, IN A PRIVATE ASIDE TO ME, THAT IF WE PURSUED THIS COURSE HE WOULD DO HIS BEST TO BRING ABOUT A POSITIVE RESULT.

4. THIS SITUATION HAS BEEN CAREFULLY AND REPEATEDLY EXPLAINED TO HAYES BY CONSUL GENERAL MACE AND OTHERS OF HIS STAFF IN ISTANBUL. UNFORTUNATELY, HAYES IS UNWILLING TO TAKE THIS ROUTE DESPITE OBVIOUS PSYCHOLOGICAL STRESS HE HAS BEEN UNDER AND OUR ABILITY TO SUBMIT EVIDENCE OF HISTORY OF EARLIER PSYCHOLOGICAL DIFFICULTIES. HIS EXPERIENCE IN SUBMITTING TO MENTAL AND PHYSICAL EXAMINATION AT BAKIRKOY MENTAL HOSPITAL IN 1972 WAS APPARENTLY HIGHLY TRAUMATIC FOR HIM. HE DOES NOT LIKE THE HOSPITAL AND BASED ON THIS EARLIER EXPERIENCE THERE HE DOES NOT BELIEVE THAT HOSPITAL STAFF WILL CERTIFY THAT STATE OF HIS HEALTH WARRANTS EARLY RELEASE. (IT WILL BE RECALLED IN THIS CONNECTION THAT IN 1972 TURKISH PSYCHIATRIC AUTHORITIES DECIDED HE WAS NOT PSYCHOTIC AND DISMISSED EARLIER EFFORTS OF HIS ATTORNEYS TO PLAY UP HAYES'S PSYCHOLOGICAL PROBLEMS.)

5. HAYES AT PRESENT IS PINNING HIS HOPES ON: (1) TRANSFER TO A "HALF-OPEN" PRISON WHERE HE COULD ENGAGE IN A GAINFUL OCCUPATION, AND (2) PROSPECT THAT AMNESTY LAW, AS IT IS BEING INTERPRETED BY COURTS IN A SERIES OF CURRENT CASES, WILL IN NEAR FUTURE BE APPLIED TO HIS CASE. THIS WOULD HAVE EFFECT OF REDUCING REMAINDER OF HIS SENTENCE TO BETWEEN THREE AND FOUR YEARS.

HAYES FEELS THAT AN UNSUCCESSFUL ATTEMPT TO OBTAIN EARLY LIMITED OFFICIAL USE

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RELEASE BY CLAIMING MENTAL AND PHYSICAL ILLNESS WOULD QUASH HIS PROSPECTS FOR TRANSFER TO A "HALF-OPEN" PRISON.

6. HAYES THEREFORE HAS TAKEN POSITION HE WILL NOT TRY ROUTE SUGGESTED BY ESENBEL UNLESS HE RECEIVES ABSOLUTE GUARANTEE FROM US THAT IT WILL WORK. SUCH A GUARANTEE WE ARE, OF COURSE, UNABLE TO GIVE.

7. WHILE WE ARE DISAPPOINTED THAT WE WERE UNABLE TO  
PERSUADE HAYES TO GO THIS ROUTE, WE SHARE HIS HOPE, AND  
THINK THERE IS A FAIR CHANCE, THAT HE WILL BE INCLUDED IN  
THE AMNESTY AND HAVE HIS SENTENCE REDUCED. WE WILL ALSO  
DO OUR BEST TO ASSIST HAYES IN OBTAINING TRANSFER TO A  
LESS DEPRESSING PRISON.  
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